GC

GC(42)/19/Add.1
23 September 1998
GENERAL Distr.

International Atomic Energy Agency
GENERAL CONFERENCE

Original: ENGLISH

Forty-second regular session
Item 17 of the agenda
(GC(42)/20)

ARTICLE VI OF THE STATUTE

The summary records of the discussion in the Board of Governors on 14, 15 and 18 September 1998 under the agenda item "Article VI of the Statute" are reproduced in the Attachments.

98-04236 (XXXVI)

EXCERPT FROM THE RECORD OF THE BOARD'S 954th MEETING
(14 September 1998)

ARTICLE VI OF THE STATUTE
(Circular Letter N5.11.6, 1998/NOTE 52)

The CHAIRMAN recalled that in June the Board had discussed three informal proposals submitted by Pakistan, the United States and by himself as Chairman, outlined in document GOV/1998/32, covering the issues of Board expansion and the composition of the areas listed in Article VI.A. The latter had also been the subject of a Presidential Statement at the previous year's General Conference (GC(41)/DEC/10). He had highlighted the main issues requiring further consultation in his summing-up on the item at the Board in June, and it had been agreed that consultations would continue and that the Board would revert to the matter in September.

Soon after the conclusion of the June Board, Japan had formally submitted an amendment to Article VI and certified copies of the text of that amendment had been circulated by the Director General to Member States by Circular Letter N5.11.6 of 22 June 1998, in accordance with the provisions of Article XVIII.A of the Statute.

At its present session, the Board was required to give its observations to the General Conference on the Japanese amendment, as provided for in Article XVIII.C of the Statute. In addition, it had to agree on its report to the General Conference, as required by operative paragraph 3 of resolution GC(41)/RES/20, which requested the Board to report on a finalized formula for approval by the General Conference at its forty-second session.

In the light of the consultations he had held, he believed that three main issues remained to be resolved. The most complicated concerned the role of regional groups in relation to the adoption of the list referred to in the new paragraph K which Japan proposed should be added to the end of Article VI. The adoption of that list and approval of the amendment by a two-thirds majority were prerequisites for the amendment's entry into force. In connection with the issue of regional groups, he drew the Board's attention to the Note to Member States containing a communication from the Resident Representative of Kuwait on behalf of the Arab Permanent Missions (1998/NOTE 52) and to the draft Presidential Statement, dated 14 September 1998, which he, as Chairman, had prepared for his consultations. The second issue concerned the size of expansion, on the subject of which three options had been put forward ranging from no increase to an increase of 6 or 7. The third issue concerned the criteria to be used in Board designations, where differing views remained on the role of financial contributions to the Agency and on safeguards and non-proliferation aspects.

He hoped that the Board would be able to resolve most outstanding matters during its current meetings, so that the Article VI issue would not once again take up too much of the General Conference's time.

After a discussion involving the Chairman and representatives of a number of delegations on the best way of considering the issues involved, the Board decided to defer its discussion on the amendment of Article VI to allow representatives time to prepare their statements.

EXCERPT FROM THE RECORD OF THE BOARD'S 955th MEETING
(15 September 1998)

ARTICLE VI OF THE STATUTE (resumed)
(Circular Letter N5.11.6, 1998/NOTE 52)

40. Ms. MXAKATO-DISEKO (South Africa), speaking on behalf of the Group of 77 and China, thanked the Chairman for his diligent efforts to reach a final formula for the amendment of Article VI of the Statute.

41. On the question of the Board's expansion, she believed that any amendment made should rectify the under-representation of the developing countries on the Board, particularly of countries in the regions of Africa, MESA and the Far East, and preclude any decrease in the frequency of their election to it. In that regard, she supported the expansion of the Board by seven seats. While each Member State had the right to be represented on the Board, the composition of each regional group and the participation of Member States in it remained primarily the responsibility of the members of that group and subject to its approval. The issue was an important and sensitive one, which should be resolved giving full consideration to the concerns of the MESA Group.

42. The Group of 77 and China earnestly hoped that the long-standing question of the amendment of Article VI would finally be resolved at the forthcoming session of the General Conference and were prepared to work in a spirit of constructive collaboration towards a fair and realistic formula that could be adopted by consensus.

43. Mr. TRUJILLO GARCIA (Colombia), speaking on behalf of GRULAC, said that the Group agreed that a decision on the amendment of Article VI of the Statute should not be deferred, but should be taken at the forty-second session of the General Conference, in line with resolution GC(41)/RES/20.

44. As to the delicate subject of the composition of regional groups, GRULAC believed that any compromise solution would have to involve a regional focus. On the subject of an increase in the number of members of the Board, the Group favoured the proposal put forward by the Africa Group at the Board in September 1997, which was set out in document GOV/2932/Rev.1, and endorsed by the Group of 77 and China. However, it also recognized the merits of the Japanese proposal, which could provide a basis for negotiation. In the light of the relatively recent circulation of that proposal, GRULAC considered that more time was needed for consultations among delegations and regional groups on the proposal.

45. Ms. FREUDENSCHUSS-REICHL (Austria)*, speaking on behalf of the European Union, Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Lithuania, Poland and Romania, said that the European Union saw no need to change the existing size of the Board,

---

* Member States not members of the Board of Governors are indicated by an asterisk.

but in recognition of the strong wishes of other Member States was prepared to admit an extension of up to six members within the framework of a comprehensive solution of the question of the Board's composition. The European Union welcomed the Chairman's proposal as an important step towards a possible settlement of the issue of amendment of Article VI.

46. On the question of regional area membership, the formula put forward in the Chairman's proposal whereby the amendment would only enter into force once agreement had been reached on the allocation of all Agency Member States to one of the regional groups was a promising approach. However, while inclusion in an appropriate regional area was the statutory right of every Member State, it should in no way be seen as guaranteeing automatic nomination or election to membership of the Board.

47. Lastly, she stressed that a common understanding on generally acceptable and adequate criteria for designation to the Board was an essential element of any consensus on enlargement. In that connection, the European Union attached particular importance to the criteria set out in the package proposal by the former Canadian Chairman of the Board contained in document GC(41)/11.

48. Mr. REGUIEG (Algeria)*, speaking on behalf of the Africa Group, noted that the Japanese proposal contained two major elements derived from the earlier Canadian package formulation. The first was the expansion of the Board by six additional seats, ruling out the African proposal for an additional designated seat, and the second was the application of the principle of linkage between expansion of the Board and the formulation of a list allocating States to the Agency's geographical areas.

49. The position of the Africa Group was that African countries should be granted one additional designated seat in order to achieve wider representation on the Board of Governors, in the light of the fact that the Africa Group was currently the largest in the Agency; that African membership of the Agency was continuously increasing; and that African countries had a high degree of involvement in the Agency's activities, notably technical co-operation programmes, as was shown by the high implementation rate of AFRA projects.

50. In conclusion, the Africa Group supported the expansion of the Board by seven seats with an additional designated seat allocated to Africa, rejected the principle of linkage and stressed the importance of the right of every group to constitute itself.

51. Mr. TAKAOKA (Japan) said with regard to the question of linkage that the chief objective of the Japanese proposal to add a new paragraph K at the end of Article VI of the Statute was to place political settlement in the Middle East before the implementation of Board expansion, although it envisaged that the expansion process could start immediately in order to save time. Japan believed that that proposal would not only meet the political concerns expressed so far, but would also resolve any legal difficulties that might be involved.

52. On the question of the extent of the proposed expansion, Japan believed that it was essential to maintain the Board's current management effectiveness and therefore felt that the smaller the increase the better. However, after having taken into consideration the positions adopted by other Member States, it had concluded that expansion by six seats was the compromise solution which stood the best chance of achieving consensus.

53. He believed that it was high time to find such a compromise solution. The Agency had a number of important challenges to tackle and should not concern itself endlessly with the question of Article VI.

54. Mr. TIWARI (India), speaking on behalf of the MESA Group, expressed appreciation for the Chairman's untiring efforts to find a solution to the complex issue of Article VI. The MESA Group had been under-represented for a long time and accordingly supported the Board's expansion. However, it believed that it was inappropriate to link the subject of area composition with the subject of Board expansion. Responsibility for the composition of regional groups rested primarily with the groups themselves and he saw no justification for making any change in the current composition of the MESA Group.

55. Mr. Ki-Moon BAN (Republic of Korea) thanked the Chairman for his strenuous efforts to find a solution to an issue which had long been the subject of delicate negotiations. He fully understood the concern expressed regarding the role of the regional groups, but believed that the Chairman's proposal would not only address that concern but would also solve the legal problem of possible conflict with Article XVIII.C. According to the proposed new paragraph K, no Member State could be allocated to one of the areas without the consent of the regional group concerned.

56. With regard to the composition of the Board, the Japanese proposal envisaged an increase of six seats, whereas the Africa Group was calling for an increase of seven, with one additional designated seat being allocated to Africa. Some delegations argued that a Board with too many members might be less productive and efficient, while others considered that the significant increase in the number of Member States of the Agency over the past 20 years should be reflected in a corresponding increase in the size of the Board. He himself did not believe any special significance should be attached to the numbers six or seven. While it was natural for regional groups to seek to ensure that they were not under-represented, and in his own group - the Far East Group - there was a strong feeling that it was the least represented group, no solution could be found if each group continued to put its own interests first.

57. Although the Japanese proposal might not satisfy everyone, it appeared to enjoy broad support and therefore merited serious consideration. If the momentum already built up were lost, the Board might have to wait a long time before it could be regained. Enough time and energy had been spent on the matter over the past 20 years, and the moment had come to turn attention to more constructive issues.

58. Mr. RITCH (United States of America) said he entirely shared the view that the time was now ripe for the Board to reach consensus on the subject and that the Chairman had

provided a vehicle for that consensus. He did not believe the proposal involved any artificial linkage: rather, it offered an opportunity for resolving simultaneously a number of questions relating to the composition of the Board. If consensus was not reached on the proposal, the Board was unlikely to reach it on any other proposal and the momentum achieved so far would be lost. He therefore urged the Board to seize the opportunity offered.

59. Mr. BENMOUSSA (Morocco) said the subject of Article VI had already been sufficiently debated and the positions of all sides were well known. What concerned him at present was the negotiating procedure that the Chairman intended to conduct prior to the General Conference. While there appeared to be a good measure of agreement on the Japanese proposal, some further steps still needed to be taken in order to reach a consensus at the forthcoming session of the General Conference.

60. Turning to the draft Presidential Statement on Article VI which the Chairman had circulated, he pointed out that if the final sentence of the present Article VI.A.2(a) ("No member in this category in any one term of office will be eligible for re-election in the same category for the following term of office") were reinstated in the proposed Japanese amendment, paragraph 2 of the draft Presidential Statement would be superfluous, since there would be no need to change the Rules of Procedure of the General Conference by deleting Rule 85(c). As there was general agreement that immediate re-election to the Board should not be permitted, or at least permitted only with the consent of the regional group concerned, he proposed that the original sentence in Article VI.A.2 be reinstated in the Japanese amendment.

61. The second sentence of paragraph 1 of the draft Presidential Statement, which indicated that the General Conference "further recognizes that political consultations and co-ordination which take place among interested States will be conducted in a manner which respects their wishes", rightly distinguished between elections and political co-ordination and consultation within the regional groups. A country that was not accepted by a regional group because of its political positions clearly had no right to attend meetings of the group for the purpose of political co-ordination.

62. The question of whether there should be six or seven additional seats on the Board should be resolved in informal consultations. He naturally, as a member of the Africa Group, strongly supported that Group's position that it should be given an additional seat since it was the largest group in the Agency and the number of African Member States in the Agency was increasing year by year. A dynamic and durable solution should be found, for once the amendment of Article VI had been adopted, the subject would not be reopened for a decade or more.

63. As for the criteria, he felt that it was desirable that they should be adopted at the same time as the proposed amendment and that they should be adopted without any question marks and without any weighting.

64. Turning to the allocation of Member States to regional groups, he said that it was not necessary to take a decision on the matter at the forthcoming session of the General Conference. Indeed, a delay would allow for a possible improvement in the situation in the Middle East. Membership in a regional group could be decided on in a single meeting, but amendment of Article VI could take several years because of the need for a decision by a two-thirds majority. Preference should therefore be given to an immediate decision on an amendment of Article VI in order to expand the Board, on the understanding that the question of regional groups would be resolved later in the light of the political situation in MESA. It was essential to make a clear distinction between the democratization of the Board, on the one hand, and a political problem whose solution did not rest with the Agency, on the other.

65. The proposed new paragraph K established a global linkage whereby the world community would be blackmailed into accepting the inclusion of a country in a specific regional group. All the regional groups except MESA were capable of reaching agreement by consensus on their composition and co-ordination. If there were to be any linkage, it should be a regional linkage restricted to MESA alone.

66. Amendment of Article VI had been under discussion for 22 years, but the question of Israel's membership in regional groups had been raised only two years ago, when it had appeared that prospects for adoption of the amendment of Article VI were good. He understood the underlying motivation as well as the requirements of Article IV. If Israel had sought entry into any group other than MESA, no one would have objected - the problem derived from Israel's insistence on membership in MESA, although in other international forums it was grouped with European countries. The issue was not one of discrimination, but rather of acceptance and of acceptability on the basis of objective political conditions.

67. The CHAIRMAN said if members of the Board preferred to include the last sentence of Article VI.A.2(a) in the proposed amendment, he would have no objection.

68. Mr. BALTHAZAR PORTELLA (Brazil), having fully endorsed the statements made on behalf of the Group of 77 and China and GRULAC, said that Brazil favoured the adoption of a consensus solution taking due account of the views and concerns of Member States and regional groups on adequate and balanced representation in the Board of Governors. The benefits for the Agency's decision-making process of enlarged representation should not be hindered by, or linked to, the difficulties involving the composition of regional groups - a problem that should be addressed primarily within the regional group concerned.

69. Brazil supported the proposal to expand the Board by seven seats and believed that there were grounds for further consultations with a view to profiting from the present momentum to reach a definitive formula for amending Article VI.

70. Mr. ZHANG Huazhu (China) felt that the members of regional groups should decide on their own composition. As to the expansion of the Board, he agreed that there should be an appropriate expansion that would have no adverse effects on the Board's work. Any increase should be based on the principle of regional balance and an improvement in the

representation of developing countries. China favoured an increase of seven seats but would be prepared to accept any other option that enjoyed consensus. Since amendment to the Statute and expansion of the Board were of such importance, China believed that it was essential that the relevant decisions be adopted by consensus.

71. Mr. JEDDA (Tunisia) supported the statement made on behalf of the Africa Group and noted that the Africa Group's proposal was the one best able to rectify the imbalance in the representation of a large number of countries on the Board.

72. As to the composition of the regional groups, each Member State had the right to representation on the Board of Governors, but it was the exclusive prerogative of the regional group concerned to determine its own composition.

73. Mr. UMER (Pakistan) fully endorsed the statements made on behalf of the Group of 77 and MESA. Clearly, the Chairman's proposal as reformulated by Japan offered the sole feasible basis for solving the difficult problem at the forthcoming session of the General Conference. While he concurred with the proposal's underlying philosophy, he wished to address a number of specific aspects.

74. There was a major difference, sometimes overlooked, between the arrangement being suggested under the current proposal and the concept that had emerged the previous year inasmuch as the decision to expand the Board was not made conditional on any other matter. It was at the time of entry into force, once a decision had been taken to expand the Board, that the question of the list of membership in regional groups would arise.

75. With regard to the size of the expansion, the position of the Group of 77, which he endorsed, had always been that there should be seven additional seats on the Board, for the reasons given persuasively by the Chairman of the Africa Group.

76. As to the role of the regional groups, he noted that it was the most critical aspect of the proposal. He had no difficulty in principle with the idea that a list of Member States should be approved by the Board and the General Conference by a two-thirds majority, but considered it essential that the initial version of the list should be drafted by the regional groups. An amendment of the Japanese proposal to take that point into account would go a long way towards resolving that aspect.

77. Turning to the end of the proposed new paragraph K, referring to the consent of the Member State concerned to any change in the list of regions to which Member States were assigned, he said that it had no merit in his eyes and raised two practical difficulties. Once the composition of a regional group had been agreed upon, it would be impossible to expel a Member State, because decisions in regional groups were adopted by consensus and no State would agree to its own expulsion. A second difficulty was that Article XIX of the Statute provided for the possibility of suspension - without the country's consent - of a State's membership in the Agency. A country's consent could not therefore be made mandatory in the area of membership in regional groups since that would create a situation whereby a

Member State could be suspended from the exercise of the privileges and rights of membership of the Agency itself, but remain part of a regional group.

78. Finally, he agreed with the Governor from Morocco that the time had not yet come to finalize the list allocating all Member States to regional groups. The fact that the list would have to be adopted when the amendment entered into force, which would not be for some time, should be kept in mind when evaluating the Japanese proposal.

RECORD OF THE BOARD'S 956th MEETING
(15 September 1998)

ARTICLE VI OF THE STATUTE (continued)
(Circular letter N5.11.6, 1998/NOTE 52)

1. Mr. DUBOIS (Canada), after thanking the Chairman for all his efforts on the matter, said that the amendment of Article VI was a complex legal, political and practical issue. He hoped that the Board would manage to finally achieve a solution but stressed the need to remember that the three main issues remaining - number of members, composition of regional groups and criteria - were interlinked. Any attempt to separate one of them from what was a finely balanced package and to pursue the notion of staggered approval of the representation and composition of regional groups was bound to run into serious legal problems.

2. Canada was not convinced that an increase in the number of Board members would improve its effectiveness and efficiency. However, as a large number of Member States seemed to prefer it - and a consensus on the matter would be desirable - Canada could accept a minimal increase in Board members.

3. Although the Moroccan Ambassador's intentions had been constructive in making his suggestions, they were somewhat removed from the consensus that the Board was seeking.

4. The proposal made by the Ambassador of Pakistan concerning the last part of paragraph K of the Japanese proposal was interesting. However, it would require further discussion, especially in the light of the remarks made by the Ambassador of Morocco about possible incompatibility with Article XIX of the Statute.

5. Finally, having arrived at the present meetings with high hopes, his delegation looked forward to a rapid consensus being achieved.

6. Mr. TIWARI (India) said that his country was willing to accept a small increase in the size of the Board, in the belief that the representation of countries in important international bodies should respond to changes in international circumstances. Its opinion was also based on the principle of the sovereign equality of all members of the Agency in accordance with Article IV.C of the Statute.

7. Regarding the criteria to be followed in designating members for the Board, India had noted the admission of the Open-ended Expert Group that the list of criteria which had been developed was not fully comprehensive, and that no consensus could be reached on it. Technical difficulties clearly still remained with regard to the weighting of the criteria, resolution of which would require a great deal of further deliberation. For example, the technology involved in mining and ore processing could not be compared with that used in the construction and operation of nuclear reactors. Another problem would be how to assign

differential weightings to nuclear power plants as opposed to complicated fuel reprocessing technology. Even after further deliberations, success could not be guaranteed. India, in line with the proposals made by the Philippines and Algeria, considered that indigenous development was far more important to the achievement of advanced technical capability than the import of technology.

8. India still believed that the indicators marked with a triangle were likely to generate inaccuracies. One example was "Capability to manufacture major components", under which a State capable of manufacturing a single component would be placed at the same level of advancement as a State which could manufacture several components. Moreover, India still did not regard the indicators under criterion No. 7, "Safeguards and non-proliferation", as a useful measure of a country's technical advancement in the field of atomic energy. Whether a Member State was a party to the NPT or had concluded a comprehensive safeguards agreement with the Agency was not relevant. The Board's discussion of criteria should be based solely on the Statute, which made no mention of the NPT. If safeguards agreements were to be used as an indicator at all, the relevant factor should be the State's level of compliance with the agreement it had signed with the Agency. The only indicator under criterion No. 7 which was worthy of retention was "Commitment to universal nuclear disarmament", which had long been the overriding objective of all non-nuclear-weapon States. His delegation therefore urged further refinement of the criteria, and suggested that perhaps criterion No. 7 should be deleted.

9. With regard to the proposal made earlier by the Ambassador of Pakistan that regional groups should be responsible for drawing up their own membership as opposed to the Secretariat, he wondered whether the intention was to address membership of all groups, or simply to deal with the question of the inclusion of Israel in the MESA Group.

10. The proposal that the composition of regional groups might be effected in stages was an interesting one. On the one hand, it would mean that wherever regional groups could agree on their composition, on expansion of the Board and other matters concerning Article VI, the Statute could be amended and expansion of the Board could take place in respect of those groups only. On the other hand, the MESA Group, lacking such agreement, would be left out in the cold which could have serious implications for the solidarity of the Group of 77, as a number of speakers had already pointed out. Moreover, the under-representation of MESA was one of the primary issues involved in the amendment of Article VI. If the kind of staggered implementation of Article VI being proposed was introduced, MESA would continue to be under-represented until it could resolve its own problems. Indeed, its under-representation would become more severe as other groups gained ground. Consequently, he was sceptical about the virtue of a staggered solution.

11. Mr. ABDULAATI MOHAMED (Libyan Arab Jamahiriya)* said that enlargement of the Board was necessary in order to reflect the increase in Agency membership, and would enhance the Board's political and moral authority and the credibility of its decisions in the

---

* Member States not members of the Board of Governors are indicated by an asterisk.

light of changed global circumstances. His delegation supported the Africa Group's proposal in that regard.

12. A series of General Conference resolutions had acknowledged Africa's under-representation on the Board. In recent years, the situation had become progressively worse owing to the comparatively large increase in the Group's membership. Despite that, and the fact that the Africa Group was unique in not having had any increase in the number of its designated seats, the current proposal did not allow Africa an equitable share of Board seats. Africa's request for the number of seats to be increased from six to seven was thus fully justified.

13. His delegation called upon those present to concentrate on the question of Board membership and equitable representation for Africa, disregarding the linkage which had been introduced between that matter and other intractable issues.

14. The more important issue of Board enlargement should be resolved separately by the forthcoming General Conference, while the composition of the regional groups should be left to the groups themselves to decide.

15. In conclusion, he associated his delegation with the statements made by the respective Chairmen of the Group of 77 and the Africa Group.

16. Mr. NASSER (Egypt)*, after associating himself with the comments made by the Chairmen of the Group of 77 and the Africa Group, said that his country and the whole Africa Group were continuing to make sincere efforts to resolve the complex Article VI issue, despite the additional complications introduced by the linkage concept.

17. Egypt did not believe that enlargement of the Board by seven seats would inhibit the Board's effectiveness. If that were the case, no enlargement would have taken place since the Agency's inception. Enlargement was simply a logical step that took account of recent international developments. Failure to take account of that was more likely to impair the Board's effectiveness.

18. With regard to the composition of regional groups, Egypt urged that the matter of Board expansion be settled independently therof, since with time a change of circumstances in the Middle East could resolve the MESA problem.

19. Egypt believed that re-election to the Board should be conditional upon the designation criteria that had been drawn up and would have liked the Japanese proposal to have contained at least some of those criteria.

20. Finally, he hoped that all parties would adopt a constructive attitude in seeking a compromise based on the Japanese proposal. Resolution of the issue would serve the interests of the Agency and all its members, and enhance the Agency's credibility.

21. Mr. AYATOLLAHI (Islamic Republic of Iran)* endorsing the statements by the Chairmen of the Group of 77 and MESA, said that the addition of seven seats would adequately meet the demands of under-represented area groups. He could therefore accept the Japanese proposal with minor modifications to accommodate the views of the Group of 77. However, his delegation would support the retention of a provision to the effect that a one-year period should elapse before re-election to the Board.

22. Iran had some difficulty with the proposed new paragraph K, which failed to take account of the rights of established area groups regarding acceptance of new members. Instead, new members would be assigned to area groups through a process of voting. He doubted whether there was any precedent in the Agency or anywhere else in the United Nations family for such a practice, which would be doomed to failure in the absence of political goodwill, and stressed that the composition of area groups should be a matter for the members of the groups themselves.

23. He thanked the Chairman for his efforts to resolve the Article VI issue, and observed that the MESA problem was only likely to be solved when the political situation improved and that, regrettably, seemed to be a long way off.

24. Mr. ZAIDE (Philippines)* associated himself with the statement made by the Ambassador of South Africa on behalf of the Group of 77 and China.

25. The Philippines was taking the floor under Rule 50 of the Board's Provisional Rules of Procedure, though it might have been speaking from a Governor's chair that year. However, in line with the spirit of co-operation prevailing within the Far East Group, his country had given way to a fellow member when the Group had been selecting its candidate for Board membership. The Far East Group wished to preserve that spirit of amity and co-operation. However, while his country sincerely appreciated the Chairman's efforts to forge a solution on the amendment of Article VI, it was bound to protest that the proposals which had been submitted unwittingly prejudiced the interests and representation of the developing Member States in the Far East Group, and could undermine the existing co-operation within the Group.

26. Mr. SIAGE (Syrian Arab Republic)*, thanking the Chairman for all his efforts, endorsed the statements by the Ambassador of South Africa on behalf of the Group of 77 and China, and by the Governor from India on behalf of the MESA Group, and stressed that the composition of regional groups was an issue which should be left to the groups themselves to decide. Any proposal to the contrary could not enjoy the support of Syria or the group of Arab States. The representative of Kuwait had made it clear that Arab countries could not accept Israel as a member of their regional group until lasting peace in the region had been achieved. He trusted that the Chairman's summing-up would take account of those facts.

27. Mr. MCINTOSH (Australia) welcomed the proposal put forward by Japan and the several constructive contributions made during the discussions of that proposal.

28. He endorsed the comments which had been made by the representative of Pakistan concerning the difference between the current Japanese proposal and the Canadian proposal of the preceding year, namely that States would not be required to agree on the composition of regional groups at the same time as agreeing to the amendment of Article VI. The representative of Pakistan had also made other interesting proposals, as had the representative of Morocco, though those might be more problematic.

29. Several delegations had commented that the Japanese proposal might provide a good basis for further work and that amendments to it might be considered. However, if amendments were made to the Japanese proposal during the current series of meetings, it would not comply with the 90-day deadline for submission of proposed amendments to the Statute specified in Rule 98 of the Rules of Procedure of the General Conference.

30. Turning to the issue of the criteria for Board designation, he agreed with the comments of the representative of India that agreement was lacking on the weighting of those criteria. However, the proposal as submitted did not attach specific weightings to the criteria nor did it foresee any fixed weightings. Rather, it left it up to the members of the Board to give weightings to the criteria in a flexible manner as they saw fit.

31. Mr. NGUYEN XUAN HONG (Viet Nam), commending the Chairman on his quest for a solution to the problem, associated himself with the statement made by the Ambassador of South Africa on behalf of the Group of 77 and China.

32. During the June meetings of the Board, his delegation had expressed its legitimate concerns regarding the need for a regular elected seat to be allocated to the Far East Group. Sadly, those concerns had not been taken account of in the latest proposal. He therefore stressed again that any expansion in Board membership should not under any circumstances result in the elimination of regular elected seats for any area, nor should it lead to under-representation of other - in particular developing - Member States. His delegation would only be able to join a consensus if the concerns of the developing countries, in particular of those in the Far East Group, were given due consideration.

33. Ms. MXAKATO-DISEKO (South Africa) commended the efforts of the Chairman to resolve the issue.

34. During the Cold War, no progress had been possible on the amendment of Article VI. However, now that that period of history was over, a unique opportunity had presented itself to resolve that issue. However, it was essential to avoid accepting any solution which rested on a bad consensus. The seventh additional seat on the Board was being requested by the Africa Group. To suggest that the efficiency and effectiveness of the Board would be impaired by expansion was to take a colonialist attitude towards the African countries reminiscent of the apartheid era. The African members of the Agency and of the United Nations organizations in New York and Geneva had always acted responsibly - particularly at the Agency with regard to non-proliferation - and Africa should be accorded its rightful place in the governing bodies of those organizations.

35. Mr. TIWARI (India), referring to the comments which the Governor from Morocco had made at the previous meeting on the list of criteria for designation of Board members, pointed out that the various symbols had been added to it to indicate the different status of the proposed indicators, and to delete them, as the Governor from Morocco had suggested, would be a gross oversimplification.

36. The Governor from Morocco had also mentioned the possibility of staggering the implementation of the different regional groups. That would be an inequitable approach and could lead to legal complications. For instance, when the MESA Group - the only problematic group - eventually decided on its composition, would another decision by the General Conference be required to amend the Statute or could the General Conference taking the initial decision allow for an automatic increase in representation in that group?

37. In defining their national positions, delegations were of course entitled to take a position which was different from that of the regional group to which they belonged. However, the Africa Group had stated that they wished to de-link the regional group issue from the issue of the amendment of Article VI, and that each group should have the right to decide upon its own composition. The Moroccan position did not include delinkage and therefore departed on a point of basic principle from the standpoint of the group to which Morocco belonged.

38. Mr. Ki-Moon BAN (Republic of Korea), addressing the question of the criteria for designation, said that certain of the criteria which had been put forward were difficult to evaluate, but as a whole they were generally acceptable. He believed that the fact that a State had signed a safeguards agreement, joined a particular convention or had nuclear capability did provide a basis for evaluating its commitment to the international community. The issue of the criteria for designation could if necessary be set aside until the problem of the amendment of Article VI had been solved, but it was really desirable for it to be dealt with promptly as part of a package, to avoid further time expenditure.

39. Mr. UMER (Pakistan), responding to the Governor from India on the question of regional groups, said he had presented a position of principle, namely that the lists of the members of regional groups to be approved by the Board and the General Conference should be prepared by the regional areas concerned. With regard to the question of the timing of that exercise, he had suggested that the list should be prepared at the point when the amendment to the Statute was about to enter into force.

40. Mr. BENMOUSSA (Morocco) said that the Ambassador of India appeared to be attributing opinions to him that he had not expressed, and calling into question his integrity and solidarity with his regional group. Of course, India, as the only permanent Board member from the MESA Group, had nothing to lose on the regional group issue.

41. Morocco had always maintained an impartial stance on the issue under discussion, its sole aim being the democratization of the Board. His country was not a potential candidate for the designated seats sought by the Africa Group. It only had the interests of the Africa Group at heart, namely to increase its seat allocation. Morocco's own interests were of course

similar to those of the group of Arab States, a fact which it had never disguised. Morocco had always attempted to uphold the principle of universality in the Agency, as the meetings records showed, and it had always maintained solidarity with its regional group.

42. With regard to the matter of global linkage, versus regional linkage, the position he had adopted was fully in accordance with the position taken by the League of Arab States in its letter of 15 July 1998 to the Chairman of the Board where, while expressing appreciation for the proposal which had been put forward by Japan, it had made three points: firstly, that the number of additional seats should be seven and not six; secondly, that each group should have the right to decide upon its own membership, with every Member State being granted the right to join a certain area; and thirdly, that the list of members for each group should be adopted separately. The view he had put forward was therefore not so far removed from the position adopted by his group, the Arab Group, namely a preference for a set of lists enabling each area to determine its composition, independently of the others, and he endorsed the statement made by South Africa on behalf of the Group of 77 in that regard.

43. The problem with global linkage was that it would delay a solution of the issue. He had recently visited the impressive nuclear facilities in the Republic of Korea which were clear evidence that the country fully deserved to be designated for membership of the Board. However, if the global linkage approach was adopted, that country would have to wait until the specific problem in the Middle East had been settled, which was quite unreasonable. All the regional areas bar one were agreed on their group membership. The Middle East remained a problem, and the Board was powerless to change that situation. In advocating regional linkage, he was not attempting to derogate the rights of the MESA Group. All the rights granted to them in the proposed amendment would be retained, but implementation would be delayed until the group problem was solved. The group of Arab States did not wish to cause any delay in the amendment process, which would be the inevitable result if paragraph K of the Japanese proposal were retained in its current form. Adopting the approach he had suggested, namely self-determination of group composition, deferred adoption of the group lists and regional linkage for MESA, should facilitate the Chairman's efforts to reach a solution on the issue.

44. The CHAIRMAN said that in his consideration of the issue for the General Conference he would take into account all the views expressed and also consult further with members of the Board. The question of the numerical increase in the size of the Board, on which the positions of members were well known, differing essentially by a margin of one, remained unsolved. With regard to the composition of regional groups there had been quite a lot of support for the general idea of preparation of a list by each regional group of its own membership. Some groups had not voiced an opinion on that matter and he was uncertain how to interpret their silence. He pointed out that, as contained in the Japanese proposal, the final decision was, however, a matter for the Board of Governors and then the General Conference. Although the proposed new paragraph K in the Japanese proposal made provision for a voting procedure, he assumed that the Board would continue its good and long-standing practice of reaching decision by consensus. With regard to re-election to

membership of the Board of Governors, the question was whether to keep the Japanese proposal as it stood or to reinstate the final sentence from the present Article VI.A.2(c) reading "No member in this category in any one term of office will be eligible for re-election in the same category for the following term of office".

45. As to the matter of criteria for designation, he noted that there was some disagreement regarding the weightings and on the items on the list carrying question marks.

46. Mr. NAGEEB (Yemen)* said that it was high time to amend Article VI in view of the increase in the Agency's membership and the expansion of its role in the field of nuclear applications and technology, particularly in the developing countries.

47. While the Japanese proposal was very constructive, it did not quite fit the bill. He supported the statement made by the representative of South Africa on behalf of the Group of 77 and the statement made by the representative of Algeria on behalf of the Africa Group. Yemen believed that the Board should be expanded by seven seats with the seventh for Africa.

48. He reaffirmed the right of every regional group to decide on its own composition and rejected any solution involving the imposition of Israel on any regional group. Political circumstances were such that the inclusion of Israel in the MESA group would paralyse it. Nevertheless, he believed that there was still room for finding a consensus on amendment of Article VI.

49. Ms. FREUDENSCHUSS-REICHL (Austria)*, speaking on behalf of the European Union, recalled the position of the European Union that, although it was not pushing for enlargement of the Board, it was very sympathetic to countries which were. It could support the Japanese proposal for amendment of Article VI, namely enlargement by six seats. It was important to the European Union that a solution encompassing all three outstanding elements - enlargement of the Board, membership of the regional groups, and criteria for designating members to the Board - be found by the Board in order to present a viable solution to the General Conference.

50. Mr. TIWARI (India) said that the MESA Group's position was that composition of the regional groups was primarily the responsibility of the Member States concerned, and that view had been supported by the Africa Group and the representative of Morocco, yet the latter had expressed himself in favour of the Chairman's paper which contained no specific mention of that important principle. The question of the listing of the eight regional groups needed to be settled forthwith. The Board had spent vast time and effort over the past 20 years on the amendment issue, and it made no sense to engage in statutory changes now, ignoring a component of the problem which would only have to be faced again in three to five years' time. The draft Presidential Statement was a subtle attempt to get round the problem. The first sentence of paragraph 1 would have the effect of forcing the MESA Group and the other groups which had supported its position, into accepting the list, as yet unspecified, in paragraph K of the draft amendment, while the following sentence said nothing of substance.

Without belittling the Chairman's effort in any way, he wished to point out that the present position of the MESA group had clearly not been appreciated and, in that connection, he stressed that MESA had never said it was opposed to the inclusion of Israel for ever. What was needed now to resolve the issue was a package taking account of the positions of all the groups concerned which could be adopted by consensus. A solution achieved without consensus would be no real solution at all.

51. On the question of criteria, he could not go along with the Governor of Morocco's suggestion that they be simply adopted without the question marks and without any weightings. The criteria aspect was important and should not be glossed over.

52. Ms. MXAKATO-DISEKO (South Africa) hoped that agreement could be reached on seven more seats for the Board, considering that the Group of 77 and MESA, who constituted a majority in the Agency, were in favour of such an increase. The situation now seemed to be the West versus the rest of the world on that question. If that were a reflection of Western fears of joint decision-making with Africans, such fears were groundless. Africa had always worked well with Commonwealth countries and would do so with the rest. Now that the European Union had expressed sympathy for the African case, she hoped that an accommodation could be achieved.

53. Mr. BENMOUSSA (Morocco), responding to India's comments, said he wished to make it clear that he did support the right of regional groups to define their own composition and had in fact endorsed the Group of 77 statement on that issue.

54. As regarded the criteria for designating members to the Board, he recalled that in the Open-ended Expert Group on that issue he had maintained that it would be impracticable to have weighting on the criteria because situations varied so much from country to country. It would be preferable to have a list without weighting to be used as a reference guide, and in case of dispute the Board could send a fact-finding mission to a region to determine which was the most advanced nuclear State. That had already occurred in fact with Brazil and Argentina. In any case, weighting factors would be likely to vary with time as technology progressed.

55. As for the question marks against financial contributions and safeguards, they ought to be dropped. In the first place, providing the Agency with the resources it needed for its programme was clear indication of a country's commitment. Secondly, safeguards and non-proliferation were a fundamental pillar of the Agency, and could in no way be disregarded. Indeed, commitment to universal nuclear disarmament had been proclaimed by no less than the President of India. Likewise, commitment to the promotion of peaceful uses of nuclear energy was reiterated regularly in Indian statements. Although India, like Pakistan and others, was not party to the NPT, provided there was no weighting factor involved, that should be no problem. Accordingly, he urged that the criteria be adopted without question marks and weighting factors without further ado.

56. With regard to paragraph K in the Japanese proposal, it was clear to all that there was a problem concerning the composition of regional groups was likely to prove intractable. As the time needed to amend the Statute would be lengthy, the question of the regional groupings could be conveniently deferred for another generation of diplomats to deal with.

57. Mr. AL-TAIFI (Saudi Arabia)*, thanking the Chairman for his efforts concerning the amendment of Article VI, expressed support for the statement made by the Governor from India on behalf of the MESA Group, which reflected Saudi Arabia's position, and trusted that the Chairman's summing-up would indicate clearly the procedure to be adopted when addressing the Article VI issue at the General Conference, given the limited time available.

58. Mr. UMER (Pakistan) said that, although the regional groups had assumed broad political positions, they had not spelt out how those positions were to be implemented, and their use as a tool to block the initiatives of other groups would be unfair to the members of the groups. He cautioned against seeking solutions that failed to take into account what had happened in the past. To suggest starting again from scratch would make a mockery of the whole process. The process had evolved in a certain direction and should be taken from there, without any position-taking, posturing and pontificating which was entirely negative.

59. He stressed the need for the criteria for designating members to the Board to be adopted and used to replace the self-serving designation practice that had prevailed over the past years.

60. Mr. PECSTEEN (Belgium) observed that the atmosphere in the Board no longer appeared as constructive as it had been in previous meetings. Referring to the statement made by the representative of South Africa, he said that the issue of the Board's expansion should not be subject to a political divide with echoes of colonialism, and the Africa Group could be assured that his delegation's position was not directed against Africa. Africa's representation on the Board would be increased under the Japanese proposal, and although that increase was perhaps not as large as desired, there was evidently a need to compromise. A few years ago, the Western Europe group had put forward proposals for Board expansion including additional seats for Europe which could be justified by the fact that the greatest concentration of significant nuclear programmes was in that region of the world. However, in a spirit of compromise, it had dropped those claims. The additional seat requested by the Africa group was a designated one related to nuclear technology advancement, and there were very clear criteria for the allocation of such seats.

61. Over the previous twenty years or so, African countries had shared places on the Board with Belgium which, with a nuclear programme accounting for 60 per cent of its electricity production, depended greatly on the decisions taken by the Board and therefore felt a strong justification for its close association with the Agency.

62. Ms. MXAKATO-DISEKO (South Africa) said it was clear that it was predominantly the West that was saying no to Africa. She cautioned against seeking a solution based on the notion that Africa was incapable of exercising good judgement and deprecated the representative of Belgium's hinting that Africa did not fulfil the criteria for

designated seats, which reflected old stereotyped attitudes. Democracy was not such a bad thing and she wondered why the West was so scared of it when it came to the Agency.

63. Mr. HEATHCOTE (United Kingdom), having associated himself fully with the statement made by the representative of Austria on behalf of the European Union, wondered whether the outstanding agenda items could be taken up the following morning before further discussion of Article VI took place.

64. The CHAIRMAN said that, if there were no objections, he would go along with that suggestion. He proposed therefore that the Board take up agenda item 8 on the restoration of voting rights the following morning, while further discussion of Article VI would take place on Thursday afternoon. In the meantime he would hold informal consultations on that issue.

65. It was so agreed.

RECORD OF THE BOARD'S 958th MEETING
(18 September 1998)

ARTICLE VI OF THE STATUTE (resumed)
(GOV/1998/56)

1. The CHAIRMAN drew attention to two new documents before the Board, the first (document GOV/1998/56) containing a draft report of the Board's observations on the proposal by Japan contained in Circular Letter N5.11.6 and the second an unnumbered document containing Part I of the Board's draft report to the General Conference on Article VI. The most substantive of the two papers was the first one, which he had drafted on the basis of the Board's earlier discussions and on the basis of the consultations he had held. While he realized that the text might not satisfy everyone, he hoped that it could be accepted as a compromise text and that discussions on the issue could be concluded, so that the Board could forward its observations on the proposal to the General Conference.

2. Mr. BENMOUSSA (Morocco), speaking on behalf of the Arab Group, said that as they had not been circulated, he had been asked to read out in full two letters to the Chairman from Ambassador Faisal Al-Ghais of Kuwait on behalf of all the members of the Arab Group. The text of the first letter dated 15 July 1998 was:

> "Excellency,
>
> "I have the pleasure to inform you that the Permanent Missions of the Arab countries members of the International Atomic Energy Agency and signed in the annex to this letter wish to express their deep appreciation to the Permanent Mission of Japan for the effort which it has exerted in preparing a proposal for the amendment of Article VI of the Agency's Statute. They consider this draft text to be a good basis for negotiations and further work and they express their preparedness to support it, after taking care of the following principles:
>
> "Firstly: Increase the seats of the Board of Governors by 7 instead of 6.
>
> "Secondly: Abide by the right of each area to decide on who may join it, while granting the right of each State to join a certain area.
>
> "Thirdly: Adopt a list of members for each area separately.
>
> "Please accept, Excellency, the assurance of my highest consideration."

The text of the second letter dated 28 July 1998 was:

"Excellency,

"Further to my letter to you on the 15th of this current month expounding, upon your request, the views of the Arab Permanent Missions in Vienna on the Japanese proposal, and in view of the imminence of the 42nd General Conference of the IAEA, and also in view of the importance which many governments, including the Arab governments, attach to the question of the amendment of Article VI of the IAEA's Statute, the Arab Permanent Missions here believe that it is of paramount importance that their position in this respect is made clear and understood correctly.

"The Arab countries have a very positive and forthcoming position in favour of reaching a speedy resolution of the long-pending question of the amendment of Article VI. They are also of the opinion that the occasion of the upcoming General Conference is too valuable to be missed for taking an appropriate decision on this matter.

"We are not only prepared, but also desire, to reach a reasonable agreement on each of the three components of the issue separately: expansion of the Board, formation of areas and criteria for Board membership. We are prepared to accept any solution, to be put in effect as soon as possible, which takes care of one major and legitimate concern of the Arab Group: we cannot accept the inclusion of Israel in the MESA area until a just, comprehensive and permanent peace in the Middle East is reached, based on relevant United Nations resolutions. At that time, the Arab countries will naturally be prepared to reconsider the question of Israel's application to the membership of MESA. But we staunchly believe that it is unjust to hold the whole question of the amendment of Article VI hostage to this one particular point. Rather, the General Conference ought to be able to approve a solution for the broader question of the amendment of Article VI without any further delay and independently thereof.

"Therefore, I once again wish to affirm, in the name of all Arab Resident Representatives to the IAEA, that we are flexible and prepared to negotiate and finalize any proposal which respects our aforementioned fundamental concern and I kindly request you to circulate this letter to all IAEA Member States for their information.

"Please accept, Excellency, the assurance of my highest consideration."

Furthermore, he requested that the texts of both letters be circulated as official documents at the General Conference.

3. Mr. SABURIDO (Cuba) endorsed the statement made earlier by Colombia on behalf of GRULAC, as well as that made by South Africa on behalf of the Group of 77 and China, on the question of Article VI of the Statute.

4. His delegation was among those which considered that a strictly regional focus was essential if agreement was to be reached on the issues involved. With regard to the size of the Board, he reiterated Cuba's preference for the solution favoured by the majority, namely an increase of seven members, in line with the proposal put forward by the Africa Group the previous year in document GOV/2932/Rev.1. As to the composition of the regional groups, that was a matter that should be decided by the groups themselves, without outside interference of any kind.

5. Turning to designation criteria, he said that it would not be useful to tackle that issue at the current meeting of the Board, since no agreement had yet been reached in the Open-ended Expert Group on a consensus formula or within the various regional groups. In any event, the designation criterion that should prevail should be strict compliance with the Agency's Statute on the part of the State concerned, supported by a consensus on the part of the regional group to which it belonged.

6. Mr. TIWARI (India), speaking on behalf of the MESA Group, reiterated that the Group supported an expansion of the Board to reflect new realities, but believed it was inappropriate to link the issue of expansion with the issue of the composition of area groups, which should be primarily the responsibility of the groups themselves. The Group saw no justification for making any change in the current composition of the MESA Group.

7. He noted that paragraph 2 of document GOV/1998/56 did not take into consideration the position of the MESA Group, which had the support of GRULAC, the Africa Group, and the Group of 77. It was unacceptable that the Chairman of the Board should merely engage in consultations with the regional groups in preparing the list of area groups since it was the responsibility of the regional groups alone to decide on their own composition. Nevertheless, the Chairman's consultations had been useful and that work should be continued at the forthcoming session of the General Conference.

8. Speaking on behalf of India, he said that as there was no consensus in the Board on the subject of designation criteria, it was inappropriate for the Board to recommend adoption of the Japanese proposal on the amendment of Article VI.

9. Mr. de OURO-PRETO (Brazil) reiterated his full support for the points made on the subject on behalf of GRULAC, namely that the issue should be approached on a regional basis, that the number of seats should be increased by seven, and that the Japanese proposal contained positive aspects that could serve as a basis for negotiations.

10. Mr. Ki-Moon BAN (Republic of Korea) pointed out that there still remained major differences of opinion even on document GOV/1998/56. However, that document seemed to offer the best practical solution to the long-standing issue of linkage inasmuch as it recognized in paragraph 2 the role of the regional groups in the preparation of the list.

11. Turning to paragraph 4 of document GOV/1998/56, he expressed his support for it and said that the criteria and indicators for designating Board members were generally acceptable.

It was his delegation's understanding that Member States did not have to satisfy all the requirements of the categories enumerated in the Attachment to document 1998/NOTE 38 at once in order to be eligible for designation to the Board.

12. Finally, he reiterated the importance of a spirit of compromise if any consensus was to be reached on the issue.

13. Mr. TRUJILLO GARCIA (Colombia) endorsed the position of GRULAC, expressing his support for a regional approach to the issue, his sympathy for the position of the Africa Group and his belief that the Japanese proposal contained a number of elements that could serve as a basis for negotiations that would result in a consensus solution. He regretted the fact that there had not been enough time to conduct proper consultations on document GOV/1998/56 within his regional group. Continued efforts must be made to reach consensus, if not in the Board, then in the General Conference.

14. Ms. FREUDENSCHUSS-REICHL (Austria)*, speaking on behalf of the European Union, said with regard to paragraph 2 of the draft report that resolving the question of participation of regional groups had always been one of the elements required in order for the European Union to consider any expansion of the Board. Unfortunately, no consensus had yet been achieved on how to handle that crucial issue. She therefore had no comments to make on the specific wording of the paragraph.

15. Although there was likewise no real consensus on the other major issues, she had a number of amendments to make to other parts of the report in order to make it more succinct and to present it more as a description of the Board's debate on the subject.

16. The first paragraph should be reworded to read:

> "The Board had a wide-ranging discussion on the proposal by Japan contained in Circular Letter N5.11.6 of 22 June 1998. As a result of this discussion, the Chairman made the following observations:"

The remaining text would then be comments attributed to the Chairman, not to the Board.

17. The first part of the second paragraph should be unnumbered and reworded to read:

> "In adopting the Japanese proposal to amend Article VI, the General Conference should decide that the President of the Conference should read the following as a decision of the Conference:"

The text in italics would then follow.

18. Paragraph 3 should be unnumbered and reworded to read:

---

* Member States not members of the Board of Governors are indicated by an asterisk.

"The hope was expressed that consultations will be intensified during the coming days with a view to resolving outstanding issues at the forthcoming session of the General Conference".

19. The fourth paragraph should be unnumbered and the phrase "The Board agrees that" should be deleted.

20. The fifth paragraph should be renumbered paragraph "2" and the word "above" replaced by the phrase "Japanese proposal with the above observations".

21. With those amendments, the valuable elements of the Board's discussions would be preserved and sent on to the General Conference, without creating the impression that there was a consensus in the Board.

22. Mr. BENMOUSSA (Morocco) expressed appreciation for the considerable efforts deployed by the Chairman throughout the past year, which overshadowed the work done by all others in the past on the subject of Article VI. It would indeed be unfortunate if those efforts were rendered vain by certain egoistical calculations. The democratization of the Board must not be allowed to founder. A distinction should be made between what was essential and what was not and he therefore called on all delegations to give very serious thought to the issue so that a final decision could be taken with a minimum of tension at the forty-second session of the General Conference.

23. The documents submitted by Morocco and Sudan on behalf of the Africa Group were still before the Board and there was no procedural or legal impediment to their being submitted to the General Conference for a decision - although he would prefer a proposal to be submitted to the Conference by the Chairman of the Board of Governors.

24. Concerning the criteria, he fully agreed with the remarks made by the Republic of Korea. The criteria did not have to be fulfilled in their entirety and served merely as a framework for reference and as guiding principles to help the Board take a decision.

25. Turning to Part I of the unnumbered draft report of the Board to the General Conference, he drew attention to the reference made at the end of paragraph 2 to "specific proposals to include each Member State within the appropriate area at the time of the General Conference in September 1998." It was clear that the matter could not be resolved by the time specified. Even if agreement was reached on paragraph K, a decision on the allocation of Member States to regional groups could be taken only at the appropriate moment when the circumstances were favourable and in any case only after ratification of the amendment.

26. As to the number of additional seats, the issue was whether the increase should be six or seven, in other words, whether the African or the Japanese proposal should be adopted. For his part, he had no doubt that the General Conference would choose the African proposal, since it was the one that made good sense.

27. The remaining issue, the fundamental right of regional groups to control their composition and policy co-ordination, had been inappropriately linked to the Article VI discussion some two years previously. Paragraph K had been formulated solely with Israel in mind and had no doubt been included in a bid to reconcile diametrically opposed views. If a two-thirds majority of the General Conference voted for the forcible inclusion of a Member State in a particular group it would only create new problems. The group would cease to meet, its meetings would be held in secret or it would simply disintegrate. The issue of regional groups should be deferred pending a change of political circumstances that would hold out some hope for a solution. At all events, the Chairman should state in his report to the General Conference that regional groups had a fundamental right to control their own membership. Member States who offered unquestioning support to Israel should be prepared to include it in their own group. The Arab States' political position on the matter was firm and could not be undermined by semantic or legal acrobatics. He therefore appealed for an end to the selfish posturing that continued to set obstacles to democratization.

28. Mr. PACALA (Slovakia)* endorsed the amendments to the Chairman's draft report proposed by Austria on behalf of the European Union. He further proposed in the third paragraph that reference should be made to "the main outstanding issue".

29. Slovakia supported the idea of a comprehensive solution and would like the new geopolitical situation and status of nuclear energy development in the area of Eastern Europe to be reflected in any proposed solution. He failed to understand why one third of all seats should be allocated to areas that were not under-represented - a proposal that was inconsistent with the aim of limiting the Board's expansion - and why the area of Eastern Europe should have fewer seats than, for example, Latin America when it had the same number of States and three times as many countries with nuclear power programmes. Slovakia would support a consensus, but in the event of discussions on a redistribution of seats, it would actively participate in any further consultations.

30. Mr. DRAIA (Algeria)*, speaking on behalf of the Africa Group, said he appreciated the Chairman's endeavours to achieve a consensus, although it unfortunately continued to prove elusive and reiterated the Africa Group's continued adherence to the statement he had made on its behalf two days previously.

31. Mr. MBOTI (Namibia) said that, while his country's position had been amply reflected by the statements on behalf of the Africa Group and the Group of 77 and China, he was deeply disappointed to note that some members of the Board were adamantly opposed to just demands for fair representation. Their insistence on linking an expansion of the Board to the imposition of a Member State on a regional group that was unwilling to accept it demonstrated bad faith and a lack of will to find a genuine solution. The Board was wasting its time and resources by pretending to make headway while maintaining entrenched positions. The Chairman was in no way to blame - on the contrary, he had inherited a seemingly intractable problem from the past.

32. As he was coming to the end of his two-year term of office, he took the opportunity to thank the Chairman for his support and to commend the Director General and the Secretariat on their efforts to promote the Agency's efficiency.

33. Ms. SABLJAKOVIC (Bosnia and Herzegovina)* associated herself fully with the statements made by the European Union and Slovakia.

34. Ms. MXAKATO-DISEKO (South Africa) thanked the Chairman once again for his tireless efforts to move the Board towards a resolution of the Article VI issue. The European Union did a gross injustice to the discussions when it claimed that no consensus whatsoever had been achieved. It was clear that consensus could never mean complete unanimity, but a consensus was beginning to emerge on key elements of the position of the Africa Group. At the same time, she failed to understand why, so long after the end of the Cold War, Africa continued to be used as cannon fodder by the West in disputes that had nothing to do with Africa. She disagreed entirely with the position adopted by Austria on behalf of the European Union and suggested that the statement should be redrafted and, as a matter of courtesy, circulated in advance so that points of agreement and disagreement with the position of the Africa Group could be identified.

35. The CHAIRMAN said that in his report to the General Conference he would note that there was no consensus on the composition of area groups, on the expansion of the Board and on the issue of designation criteria.

36. Mr. BENMOUSSA (Morocco) noted that the absence of consensus was particularly marked in the case of the composition of area groups, whereas in the case of the two other issues there were divergent views which could still be resolved with a measure of goodwill.

37. Mr. UMER (Pakistan) said it would be an injustice to dismiss the entire exercise as a failure, given the progress that had been made in some areas and the Chairman's valiant efforts to promote a resolution of the Article VI issue at the forthcoming session of the General Conference. The absence of consensus did not apply categorically or in equal measure to all three components. The proposed formulation with respect to the composition of regional groups had not met the requirements of the MESA Group, but there was room for further consultations. The revised version of the Chairman's report should reflect the views expressed in the statements by South Africa and Morocco, placing the issues in their correct perspective and summarizing the divergent opinions, while at the same time indicating the progress that might be made on all three issues.

38. Mr. FREEMAN (United Kingdom) said that, in view of the enormous respect felt by members of the Board for the Chairman's endeavours and the mutual esteem that led them to recognize that differences of perspective were honestly held, he hoped that the recriminations that were so uncharacteristic of the atmosphere of friendliness and mutual respect that normally prevailed in the Board could be avoided at the next meeting.

39. The CHAIRMAN said he would endeavour to reflect all statements and suggestions in a revised report.

EXCERPT FROM THE RECORD OF THE BOARD'S 959th MEETING
(18 September 1998)

ARTICLE VI OF THE STATUTE (continued)

1. The CHAIRMAN pointed out that Part I (Background) of the draft report of the Board on Article VI of the Statute previously issued as an unnumbered GOV document had been reissued as an unnumbered GC document, and that a revised version of document GOV/1998/56 had been incorporated as Part II in the new unnumbered GC document.[1]

2. There was a minor error in paragraph 12 and the word "only" in the second italicized paragraph, which had not been in the previous text, should be deleted. Paragraph 15 contained a new element, namely, his proposal that the Board should take a decision on the criteria issue as soon as possible after the General Conference had adopted an amendment to Article VI.

3. Ms. MXAKATO-DISEKO (South Africa) proposed that paragraph 13 should be reworded to read:

> "Although there was a broad consensus on the issue of the size of the expansion of the Board, namely by six or seven, the Board was not able to agree on separating this issue from the question of the composition of the regional groups."

4. Ms. FREUDENSCHUSS-REICHL (Austria)*, speaking on behalf of the European Union, said that the revised text of the report captured the general thrust of the situation. However, in order to make the flow of the paragraphs even more logical, she proposed that the order of paragraphs 14 and 15 be reversed so as to keep the three elements of the package together and that the word "also" be inserted after the words "a divergence of views" at the beginning in the current paragraph 15. Lastly, as the last sentence of paragraph 15 was in indirect speech, the word "enters" should be changed to "entered" and "will" should be replaced by "should".

5. The European Union could not accept the amendment to paragraph 13 proposed by South Africa because it did not reflect the position which the European Union had consistently held that it could move towards a consensus on expanding the Board by six members only if the other two elements of the package were also in place, namely the question of membership of regional groups and the question of criteria and indicators. The South African proposal gave the impression that there was a desire to separate the question of Board expansion from those two elements.

---

[1] The final version of Parts I and II was subsequently issued as document GC(42)/19.

* Member States not members of the Board of Governors are indicated by an asterisk.

6. The CHAIRMAN said that he had placed paragraph 14 before paragraph 15 because the issue of criteria was a matter primarily for the Board not for the General Conference to decide.

7. Mr. RITCH (United States of America) said that paragraph 13, as it stood, appeared to reflect a broad agreement that the Board should be expanded by six or seven seats, which was not the case. He suggested that a phrase be added to indicate that a willingness to expand the Board at all was integrally related to the resolution of the issue of the composition of regional groups. Unless the text reflected that position, it misrepresented the strongly held views of a number of Board members. He would also favour a re-ordering of paragraphs 14 and 15.

8. Mr. BOURITA (Morocco) said that he did not intend to make detailed comments on the text, because it was not in the tradition of his delegation or of the Board to have detailed discussions or introduce amendments to texts drafted by the Chairman and because the Board had been asked to transmit its comments on the Japanese proposal to the General Conference for it to take a decision, and not to take a decision or adopt a unanimous position itself.

9. Although he understood the logic of the European Union's proposal, he agreed with the Chairman that the consultations during the General Conference should focus on the number of additional seats by which the Board was to be expanded and on the question of regional groups, whereas the criteria issue referred to in paragraph 15 could be discussed later when the amendment entered into force and was in any case a matter for the Board to decide.

10. With regard to paragraph 12, he reiterated his delegation's suggestion that a sentence should be added to the President's Statement recognizing the right of the regional groups to decide upon their own composition. As to the problem of the number of additional seats and the designation criteria, he believed that they could be resolved in the course of the forthcoming session of the General Conference given the necessary goodwill.

11. Mr. UMER (Pakistan) said that it should be made clear that any reference in the report to a linkage between Board expansion and the composition of regional groups was the view of only one set of countries and not of the Board as a whole.

12. Ms. MXAKATO-DISEKO (South Africa) agreed with the Chairman that it was more appropriate to retain the original order of paragraphs 14 and 15, since paragraph 15 dealt with issues which went beyond the purview of the General Conference.

13. The CHAIRMAN asked whether the Board could agree to retain the original order of paragraphs 14 and 15.

14. It was so agreed.

15. Mr. AYATOLLAHI (Islamic Republic of Iran)* noted that paragraph 8 of the report gave the impression that there had been no previous discussion on the question of the composition of area groups, whereas the thirty-ninth session of the General Conference, in the first operative paragraph of its resolution GC(39)/RES/22, referred to "the view that the primary responsibility for deciding upon the composition of regional groups lies with the respective groups themselves and the view that every State has the right to participate in a regional group ...". He would therefore like paragraph 8 to be amended accordingly.

16. Mr. BENMOUSSA (Morocco) suggested that the last sentence of paragraph 8 be amended to read: "On the question of the composition of area groups, the issue is still to be agreed upon."

17. Mr. TIWARI (India) said that the issue of the composition of regional groups had been discussed at length and to say that no agreement had been reached on it was too dismissive and an oversimplification. Earlier sessions of the General Conference had upheld the view that the responsibility for the composition of regional areas lay with the areas themselves. That fact should perhaps be recalled, and it might be a good idea to cite General Conference resolution GC(39)/RES/22 as had been suggested by the representative of the Islamic Republic of Iran.

18. Mr. BENMOUSSA (Morocco) suggested that, in order to present a balanced view of the discussions in the Board, paragraph 8 be amended to read:

> "On the question of expansion of the Board, the difference related only to one seat, but that in the view of many was crucial. On the question of the composition of area groups, while some considered that the exact role of area groups is still to be agreed upon, others insisted on the primary responsibility of these groups to determine their own composition."

19. The CHAIRMAN asked whether the Board wished to approve the amendment to paragraph 8 that had just been proposed by the Governor from Morocco.

20. It was so agreed.

21. The CHAIRMAN, after a discussion on the wording of paragraph 13 in which Mr. UMER (Pakistan), Ms. FREUDENSCHUSS-REICHL (Austria)*, Mr. RITCH (United States of America), Ms. MXAKATO-DISEKO (South Africa), Mr. PACALA (Slovakia)*, Mr. MBOTI (Namibia), Mr. DRAIA (Algeria)*, Mr. MCINTOSH (Australia), Mr. BENMOUSSA (Morocco) and Mr. TIWARI (India) participated, asked whether the Board could agree to replace paragraph 13 with a new paragraph 12 as proposed by Mr. RITCH (United States of America) to read:

"The Board was not able to reach agreement on the Japanese proposal. Some members favoured an expansion of the Board by seven members without any linkage of the issues cited in paragraph 6. Other members agreed to an expansion by six, but only in the context of a comprehensive solution to the three issues cited in paragraph 6."

22. It was so agreed.

23. The CHAIRMAN took it that the Board wished to adopt the draft report of the Board on Article VI of the Statute as amended during the meeting.

24. It was so decided.

25. Mr. UMER (Pakistan), supported by Mr. RITCH (United States of America) and Mr. KEMPEL (Austria), suggested that appreciation should be expressed to the Chairman for his sustained and sincere efforts in trying to resolve the complex issues involved.

26. Mr. BENMOUSSA (Morocco) endorsed the remarks by the representative of Pakistan and said that it would be desirable for Ambassador Ikeda to continue to chair a negotiating group on Article VI during the General Conference and afterwards if necessary.

27. The CHAIRMAN, having thanked the Board for the confidence it was placing in him, pointed out that only the General Conference could take a decision on the proposal made by the Governor from Morocco.